

1 UNITED STATES DISTRICT COURT
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DISTRICT OF NEVADA

3 BRUCE BIRCH,

4 Plaintiff,

Case No. 3:19-cv-00640-APG-WGC

5 v.

6 PAM DEL PORTO, *et al.*,

7 Defendants.

ORDER

8 **I. DISCUSSION**

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10 On October 18, 2019, Plaintiff, then an inmate in the custody of the Nevada
11 Department of Corrections (“NDOC”), initiated this prisoner civil rights action pursuant to
12 42 U.S.C. § 1983. (ECF No. 1-1). On July 30, 2020, the Court issued a screening order
13 and stayed the case for 90 days to give the parties an opportunity to settle their dispute.
14 (ECF No. 13). On November 20, 2020, due to an emergency rescheduling of the inmate
15 early mediation conference set for November 17, 2020, the Court entered an order extending
16 the 90-day stay until January 8, 2021. (ECF No. 34). On December 29, 2020, the Court
17 vacated the inmate early mediation conference set for January 5, 2021 because the Plaintiff
18 was hospitalized. (ECF No. 42). On January 12, 2021, Defendants filed a suggestion of
19 death on the record stating that Plaintiff Bruce Birch had passed away on January 8,
20 2021. (ECF No. 44).

21 Pursuant to Federal Rule of Civil Procedure 25(a)(1), “[i]f a party dies and the claim
22 is not extinguished, the court may order substitution of the proper party. A motion for
23 substitution may be made by any party or by the decedent’s successor or representative.
24 If the motion is not made within 90 days after service of a statement noting the death, the
25 action by or against the decedent must be dismissed.” Fed. R. Civ. P. 25(a)(1). As such,
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1 if there is no motion for substitution filed within ninety (90) days from the date of this order,
2 the Court will dismiss the case.

3 **II. CONCLUSION**

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5 For the foregoing reasons, I HEREBY ORDER that the Court will dismiss this case
6 in ninety (90) days from the date of this order if there is no motion for substitution filed
7 pursuant to Federal Rule of Civil Procedure 25(a)(1).

8 I FURTHER ORDER the Court denies the pending motions at ECF Nos. 15, 20,
9 22, 23, 27, 35, 36, 37, and 39 with leave for the moving party to request reinstatement of
10 their motions within seven days from the Court's order granting any motion to substitute
11 the proper party.

12 I FURTHER ORDER that the application to proceed *in forma pauperis* (ECF No.
13 1) is denied as moot.

14 DATED: January 14, 2021

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19 ANDREW P. GORDON
20 UNITED STATES DISTRICT JUDGE
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